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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/699,052 | 10/31/2003 | Tarun K. Arora | PPC-5026-US-NP | 1208 |
| 27777 7590 11/24/2009 PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003 | | | | |
| EXAMINER | | | | |
| HAND, MELANIE JO | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3761 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,052

Applicant(s)

ARORA ET AL.

Examiner

MELANIE J. HAND

Art Unit

3761

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 31-37 have been considered but are moot in view of the new ground(s) of rejection prompted by applicant's amendment to the claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 31-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlucci et al (WO 01/72252 A1).

With respect to **claim 31**: Carlucci discloses an absorbent article comprising the following: a substantially transparent body-faceable, liquid-permeable cover layer in the form of a topsheet that is completely transparent (Page 5, line 7 – Page 6, line 5); a substantially transparent, liquid-impermeable barrier layer, namely a backsheet (Page 6, line 10 – Page 7, line 15); a substantially transparent liquid absorbing absorbent system in the form of a fluid storage layer arranged between said cover layer and said barrier layer, wherein said absorbent system is free of fibrous material and comprises a mixture of a hot melt adhesive and a liquid-absorbing polymer inasmuch as the Hydromelt adhesive disclosed by Carlucci is a hot melt adhesive. (Page 8, lines 21-25, Page 12, line 31 – Page 13, line 9)

With respect to **claim 32**: The absorbent system/storage layer disclosed by Carlucci consists essentially of a substantially transparent liquid absorbing coating consisting essentially of said hot melt adhesive and said liquid-absorbing polymer. (Page 12, line 31 – Page 13, line 9)

With respect to **claim 33**: The absorbent article disclosed by Carlucci further comprises a substantially transparent separating layer in the form of an optional primary distribution layer arranged between said cover layer and said absorbent system. (Page 8, lines 27-34)

With respect to **Claim 34**: Carlucci teaches that the absorbent core is transparent over its entire surface, which examiner interprets as encompassing an embodiment wherein the separating layer is transparent since it lies between the topsheet and the storage layer. (Page 8, lines 13-15)

With respect to **claim 35**: The liquid-absorbing polymer disclosed by Carlucci comprises a superabsorbent polymer, namely a hydrogel. (Page 12, line 31 – Page 13, line 9)

With respect to **claim 36**: The article disclosed by Carlucci has a light transmittance of at least 40%, which overlaps the claimed range of greater than about 45%. (Page 4, lines 6-8)

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
6. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlucci et al ('252) in view of Grondin et al (U.S. Patent No. 6,103,954).

With respect to **claim 37**: Applicant is advised that this claim depends from claim 34 which recites a substantially transparent layer free of fibrous material, however since claim 37 merely refers to a separating layer, the examiner has not rejected the claim under 35 U.S.C. 112 but is given its broadest reasonable interpretation. Carlucci discloses a fibrous separating layer but does not disclose that the fibrous layer comprises a fibrous material having a denier in a range from about 1.5 denier per fiber (dpf) to about 15 dpf. Grondin discloses an absorbent article of a substantially identical structure to that of Carlucci, with an additional separating layer between the cover layer 10 and core 14 in the form of a liquid acquisition layer 12. Grondin discloses that the fibers in the separating layer 12 or of a denier between 3-15 dpf, which overlaps the claimed range. ('954, Col. 2, lines 15-19) It is examiner's position that since Grondin discloses a fibrous separating layer with fibers of a fineness within the claimed range, that such a layer with said

fine fibers could be used in the article of Carlucci with a reasonable expectation of success and that fibers of such fineness would be compatible with the goal of transparency in the article of Carlucci. Therefore it would be obvious to one of ordinary skill in the art to modify the article of Carlucci such that the separating layer has fibers of a fineness disclosed by Grondin that falls within the claimed range to preserve the transparency as well as the function of the layer.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/
Primary Examiner, Art Unit 3761